

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

DONYEIL CUNNINGHAM,

Petitioner

VS.

HILTON HALL, Warden,

Respondent

NO. 3:09-CV-28 (CDL)

PROCEEDING UNDER 28 U.S.C. §2254
BEFORE THE U.S. MAGISTRATE JUDGE

ORDER

Petitioner Donyeil Cunningham has filed a motion which has been docketed as a “Motion for Judgment as a Matter of Law.” Tab #14. In his motion, petitioner Cunningham contends that respondent Hilton Hall failed to file responsive pleadings within the sixty (60) day time period as required by the undersigned’s April 10, 2009 Order. Tab #7. Consequently, petitioner Cunningham contends that respondent Hall is in default and that, as such, the instant petition should immediately be granted. The petitioner is mistaken.

Pursuant to the language of the undersigned’s April 10, 2009 order, respondent Hall was directed to “make an answer in writing to the allegations of the petition and any amendments thereto, filing the same with the clerk of this court WITHIN SIXTY (60) DAYS after service of this order.” (emphasis added). The record in this case indicates that respondent Hall was served with this action on April 13, 2009. Tab #9. Accordingly, respondent Hall had until June 12, 2009 to file his response. As respondent Hall’s Response (Tab #12) was timely filed on June 11, 2009, petitioner Cunningham’s argument is without merit.

Accordingly, IT IS ORDERED that the petitioner’s Motion for Judgment as a Matter of Law be **DENIED**.

SO ORDERED, this 30th day of JUNE, 2009.



A handwritten signature in black ink, reading "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE